

UNITED STATES DEPARTMENT OF AGRICULTURE

USDA
OALJ/HCO

BEFORE THE SECRETARY OF AGRICULTURE

2004 OCT 12 P 3:28

In re:

AWA Docket No. 02-002

RECEIVED

DEVA EXOTICS, INC., a Wisconsin
corporation, and successor-in-interest to
DEVA EXOTICS, LLC., a Wisconsin
limited liability company;
MICHAEL V. DEMMER; an individual;
and JOANNE VASSALLO, an individual,

Respondents.

Consent Decision and Order as to
Michael V. Demmer

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) (the "Act"), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondents willfully violated the Act and the regulations and standards issued thereunder (9 C.F.R. § 1.1 et seq.). This decision is entered into pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondent Michael V. Demmer admits the jurisdictional allegations in the complaint, admits the remaining allegations as set forth herein as findings of fact and conclusions of law, waives oral hearing and further procedure, and consents and agrees to the entry of this decision for the purpose of settling this proceeding. The complainant agrees to the entry of this decision.

Findings of Fact

1. Respondent Michael V. Demmer is an individual whose business address is 3983 County Highway O, Potosi, Wisconsin 53820. At all times mentioned herein, said respondent was licensed and operating as an exhibitor, as that term is defined in the Act and the Regulations, under Animal Welfare Act license number 35-C-0199, issued under the name "MIKE DEMMER AND

JOANNE VASSALLO, doing business as Deva Exotics,” and was a principal in respondent Deva Exotics, Inc. Said respondent previously held licenses 21-A-005 and 21-C-021.

2. On May 7, 2000, respondent Demmer failed to have appropriate equipment available, and specifically, used inadequate equipment to restrain lions, tigers, and wolves.
3. On or about February 3, 2000, respondent Demmer failed to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent injuries, and, specifically, allowed an unsupervised and untrained member of the public to handle an adult Siberian tiger.
4. On May 3, 2000, respondent Demmer failed to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent injuries, and, specifically, allowed unsupervised and untrained members of the public to handle lions, tigers, and wolves and/or wolf-dog hybrids.
5. On May 7, 2000, respondent Demmer failed to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent injuries, and, specifically, allowed unsupervised and untrained members of the public to handle lions, tigers, and wolves.
6. On May 7, 2000, respondent Demmer failed to handle a Siberian tiger as carefully as possible in a manner that did not cause trauma and unnecessary discomfort to the animal.
7. On or about February 3, 2000, respondent Demmer failed to handle a Siberian tiger as carefully as possible in a manner that did not cause unnecessary discomfort to the animal.
8. On May 3, 2000, respondent Demmer failed to handle a female lion, a male Siberian tiger, and approximately six wolves or wolf-dog hybrids during public exhibition so there was

minimal risk of harm to the public and to the animals, with sufficient distance or barriers between the animal and the public so as to ensure the safety of the animal and the public.

9. On May 7, 2000, respondent Demmer failed to handle a female lion, a male Siberian tiger, and approximately six wolves during public exhibition so there was minimal risk of harm to the public and to the animals, with sufficient distance or barriers between the animal and the public so as to ensure the safety of the animal and the public.

10. On or about February 3, 2000, respondent Demmer exhibited a female lion and a male Siberian tiger under conditions that were inconsistent with their good health and well-being.

11. On May 3, 2000, respondent Demmer exhibited a female lion, a male Siberian tiger, and approximately six wolves or wolf-dog hybrids under conditions that were inconsistent with their good health and well-being.

12. On May 7, 2000, respondent Demmer exhibited a female lion, a male Siberian tiger, and approximately six wolves under conditions that were inconsistent with their good health and well-being.

Conclusions

1. Respondent Demmer has admitted the findings of fact, the parties have agreed to the entry of this decision, and therefore such decision will be entered.

2. On May 7, 2000, respondent Demmer willfully violated the attending veterinarian and veterinary care regulations by failing to have appropriate equipment available, and specifically, used inadequate equipment to restrain lions, tigers, and wolves. 9 C.F.R. § 2.40(b)(1).

3. On or about February 3, 2000, respondent Demmer willfully violated the attending veterinarian and veterinary care regulations by failing to establish and maintain programs of adequate

veterinary care that included the use of appropriate methods to prevent injuries, and, specifically, allowed an unsupervised and untrained member of the public to handle an adult Siberian tiger. 9 C.F.R. § 2.40(b)(2).

4. On May 3, 2000, respondent Demmer willfully violated the attending veterinarian and veterinary care regulations by failing to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent injuries, and, specifically, allowed unsupervised and untrained members of the public to handle lions, tigers, and wolves and/or wolf-dog hybrids. 9 C.F.R. § 2.40(b)(2).

5. On May 7, 2000, respondent Demmer willfully violated the attending veterinarian and veterinary care regulations by failing to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent injuries, and, specifically, allowed unsupervised and untrained members of the public to handle lions, tigers, and wolves. 9 C.F.R. § 2.40(b)(2).

6. On May 7, 2000, respondent Demmer willfully violated the handling regulations by failing to handle a Siberian tiger as carefully as possible in a manner that did not cause trauma and unnecessary discomfort to the animal. 9 C.F.R. § 2.131(a)(1).

7. On or about February 3, 2000, respondent Demmer willfully violated the handling regulations by failing to handle a Siberian tiger as carefully as possible in a manner that did not cause unnecessary discomfort to the animal. 9 C.F.R. § 2.131(a)(1).

8. On May 3, 2000, respondent Demmer willfully violated the handling regulations by failing to handle a female lion, a male Siberian tiger, and approximately six wolves or wolf-dog hybrids during public exhibition so there was minimal risk of harm to the public and to the animals,

with sufficient distance or barriers between the animal and the public so as to ensure the safety of the animal and the public. 9 C.F.R. § 2.131(b)(1).

9. On May 7, 2000, respondent Demmer willfully violated the handling regulations by failing to handle a female lion, a male Siberian tiger, and approximately six wolves during public exhibition so there was minimal risk of harm to the public and to the animals, with sufficient distance or barriers between the animal and the public so as to ensure the safety of the animal and the public. 9 C.F.R. § 2.131(b)(1).

10. On or about February 3, 2000, respondent Demmer willfully violated the handling regulations, by exhibiting a female lion and a male Siberian tiger under conditions that were inconsistent with their good health and well-being. 9 C.F.R. § 2.131(c)(1).

11. On May 3, 2000, respondent Demmer willfully violated the handling regulations, by exhibiting a female lion, a male Siberian tiger, and approximately six wolves or wolf-dog hybrids under conditions that were inconsistent with their good health and well-being. 9 C.F.R. § 2.131(c)(1).

12. On May 7, 2000, respondent Demmer willfully violated the handling regulations, by exhibiting a female lion, a male Siberian tiger, and approximately six wolves under conditions that were inconsistent with their good health and well-being. 9 C.F.R. § 2.131(c)(1).


Order


1. Respondent, his agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the Regulations and Standards.

2. Animal Welfare Act licenses numbers 35-C-0199, 21-A-005 and 21-C-021 are hereby


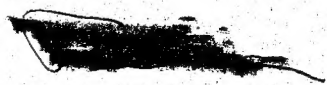
revoked.

This order shall become effective on the first day after service of this decision on the respondent. Copies of this decision shall be served upon the parties.


Michael V. Demmer
Respondent

For 
Colleen Carroll
Attorney for Complainant

Done at Washington, D.C.
this 24 day of October, 2004

 
Victor W. Palmer
Administrative Law Judge